

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Osby Cortez Scott,

Case No. 4:10 CV 2722

Petitioner,

MEMORANDUM OPINION  
AND ORDER

-vs-

Rich Gansheimer, Warden,

JUDGE JACK ZOUHARY

Respondent.

This Court has reviewed the Report and Recommendation (“R&R”) of the Magistrate Judge filed January 6, 2012 (Doc. No. 21). The R&R recommends this Court deny the Petition because it is time-barred (Doc. No. 21 at 13). Under the relevant statute, 28 U.S.C. § 636(b)(1):

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

The failure to file objections within the time frame set forth in the statute constitutes a waiver of a *de novo* review by the district court. *United States v. Sullivan*, 431 F.3d 976, 984 (2005).

Petitioner Osby Scott’s original deadline for filing objections to the R&R was January 20, 2012. This Court granted Petitioner’s request for an extension to file objections and set February 24, 2012 as the new deadline (Doc. No. 22 & 23). It is now March 2, 2012 and Petitioner has yet to file objections. The R&R accurately states the facts and law, and this Court adopts it in its entirety.

For the forgoing reasons, the Petition is denied and this action is dismissed pursuant to 28 U.S.C. § 2243. Further, this Court certifies there is no basis on which to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

March 2, 2012